



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 7, 1998

Ms. Christine Mirbagheri
Assistant City Attorney
City of Dallas
City Hall
Dallas, Texas 75201

OR98-1880

Dear Ms. Mirbagheri:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 117351.

The Dallas Police Department received a request for "[t]he Internal Affairs investigation file Control No. 96-334." You explain that you will release most of the requested information. You claim, however, that certain documents which you characterize as medical records must be withheld from required public disclosure by section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the documents you have submitted.

You claim that the submitted records must be withheld under section 552.101 as confidential medical records. The Medical Practice Act (the "MPA"), article 4495b of Vernon's Texas Civil Statutes, provides in part:

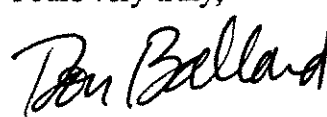
(b) Records of the identity, diagnosis, evaluation, or treatment of a patient by a physician that are created or maintained by a physician are confidential and privileged and may not be disclosed except as provided in this section.

(c) Any person who receives information from confidential communications or records as described in this section other than the persons listed in Subsection (h) of this section who are acting on the patient's behalf may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was first obtained.

Section 5.08(j)(3) requires that any subsequent release of medical records be consistent with the purposes for which a governmental body obtained the records. Open Records Decision No. 565 (1990) at 7. Thus, access to the medical records at issue is not governed by chapter 552 of the Government Code, but rather provisions of the MPA. Open Records Decision No. 598 (1991). The documents submitted to this office contain medical records covered by the MPA. We have marked the information that must be withheld under this statute.¹ One of the documents, a medical records release, is not a record of the treatment of a patient created or maintained by a physician. This document must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/nc

Ref: ID# 117351

Enclosures: Submitted documents

cc: Ms. Ardith Buchanan
1320 Regatta Place
Dallas, Texas 75216
(w/o enclosures)

¹We note, however, that confidential medical records must be released to a patient or their authorized representative. See V.T.C.S. art. 4495b, §§ 5.08(b), (h)(5) (release of confidential medical records to patient or authorized person); Gov't Code § 552.023 (person has a right of access to information that relates to that person and is protected from disclosure by laws intended to protect that person's privacy interests).